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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

FERRILL J. VOLPICELLI,	Case No. 3:17-cv-00690-MMD-WGC
<div style="border-left: 1px solid black; padding-left: 10px;">v. WARDEN,</div>	ORDER
<div style="border-left: 1px solid black; padding-left: 10px;">Petitioner, Respondent.</div>	

This habeas matter under 28 U.S.C. § 2254 comes before the Court for initial review. The filing fee has been paid. (ECF No. 5.)

Under Local Rule LSR 3-1, Petitioner must file his petition on the Court’s required § 2254 petition form. Petitioner instead used a form for a § 2241 petition. The fact that Petitioner is challenging his sentence calculation does not lead to a conclusion that his petition arises under § 2241 instead of § 2254. Rather, § 2254 is the exclusive vehicle for bringing a habeas petition by an inmate in custody under a state court judgment of conviction, regardless of the target of the petition. *See, e.g., Shelby v. Bartlett*, 391 F.3d 1061, 1063-64 (9th Cir. 2004). Petitioner therefore must use the Court’s required § 2254 form.

It is therefore ordered that the Clerk of Court will file the petition and that, within thirty (30) days from entry of this order, Petitioner must dispatch to the Clerk an amended petition on the Court’s required § 2254 form. If Petitioner fails to timely do so, this action will be dismissed without further advance notice for failure to comply with the local rules and orders of the Court.

1 The Clerk of Court will send Petitioner two copies each of his original petition and
2 a noncapital § 2254 petition form, along with one copy of the instructions for the form.

3 DATED THIS 26th day of April 2018.

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MIRANDA M. DU
7 UNITED STATES DISTRICT JUDGE
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